IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Applicant	:	Dan Scott Johnson
Application No.	:	10/808,012
Filed	:	March 24, 2004
For	:	AUDIO/VIDEO COMPONENET NETWORKING SYSTEM AND METHOD
Examiner	:	Mushfikh I. Alam
Art Unit	:	2426
Docket No.	:	200207103-1
Date	:	May 26, 2009

APPEAL BRIEF

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Sir:

This appeal is from the decision of the Examiner, in an Office Action mailed December 24, 2008, finally rejecting claims 1-38.

REAL PARTY IN INTEREST

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 11445 Compaq Center Drive W, Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

RELATED APPEALS AND INTERFERENCES

Appellant's representative has not identified, and does not know of, any other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1-38 are pending in the application. Claims 1-38 were finally rejected in the Office Action dated December 24, 2008. Appellant appeal the final rejection of claims 1-38 which are copied in the attached CLAIMS APPENDIX.

STATUS OF AMENDMENTS

No Amendment After Final is enclosed with this brief. The last Response was filed August 6, 2008.

SUMMARY OF CLAIMED SUBJECT MATTER

Independent Claim 1

Claim 1 is directed to an audio/video (A/V) source component (16 in Figure 3; paragraphs [0019] and [0039]), comprising: a processor (16 in Figure 3; paragraph [0039]); and a data manager (156 in Figure 5; paragraphs [0047] and [0048]) executable by the processor, the data manager adapted to monitor presentation of A/V program data requested by a user via a presentation device (16 in Figure 3; paragraph [0019]), the data manager adapted to automatically retrieve A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data to the user (410, 412, and 414 in Figure 7; paragraph [0066]).

Dependent Claims 2-9

Claim 2 is directed to the component of Claim 1, wherein the data manager is adapted to transmit the monitored A/V program data to a sink component coupled to the presentation device (paragraphs [0021] and [0048]). Claim 3 is directed to the component of Claim 1, wherein the data manager is adapted to receive a request for the monitored A/V program data from a sink component coupled to the presentation device (paragraphs [0021]

and [0048]). Claim 4 is directed to the component of Claim 1, wherein the data manager is adapted to identify the related A/V program data via a recordation time of the monitored A/V program data (paragraph [0054]). Claim 5 is directed to the component of Claim 1, wherein the data manager is adapted to identify the related A/V program data via header data of the monitored A/V program data (paragraph [0054]). Claim 6 is directed to the component of Claim 1, wherein the data manager is adapted to automatically transfer the monitored A/V program data to the archival storage system if a presentation time for the monitored A/V program data exceeds a predetermined period (paragraph [0055]). Claim 7 is directed to the component of Claim 1, wherein the data manager is adapted to automatically transfer the monitored A/V program data to the archival storage system based on a memory capacity (paragraph [0052]). Claim 8 is directed to the component of Claim 1, wherein the archival storage system comprises an optical media storage system (paragraph [0049]). Claim 9 is directed to the component of Claim 1, wherein the data manager is adapted to determine whether A/V program data related to the monitored A/V program data resides in the archival storage system (408 in Figure 7; paragraph [0066]).

Independent Claim 10

Claim 10 is directed to an audio/video (A/V) source component (16 in Figure 3; paragraphs [0019] and [0039]), comprising: a means for monitoring presentation of requested A/V program data to a user via a presentation device (156 in Figure 5; paragraphs [0047] and [0048]); and a means for automatically retrieving A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data (410, 412, and 414 in Figure 7; paragraph [0066]).

Dependent Claims 11-14

Claim 11 is directed to the component of Claim 10, further comprising means for automatically transferring the monitored A/V program data to the archival storage system if a presentation time for the monitored A/V program data exceeds a predetermined period. Claim 12 is directed to the component of Claim 10, further comprising means for identifying the related A/V program data via a recordation time of the monitored A/V program data (paragraph [0054]). Claim 13 is directed to the component of Claim 10, further comprising means for identifying the related A/V program data via header data associated with the monitored A/V program data (paragraph [0054]). Claim 14 is directed to the component of

Claim 10, further comprising means for transmitting the monitored A/V program data to a sink component coupled to the presentation device (paragraphs [0021] and [0048]).

Independent Claim 15

Claim 15 is directed to an audio/video (A/V) component networking method (Figure 7; paragraph [0066]), comprising: monitoring presentation of requested A/V program data via a presentation device (412 in Figure 7; paragraph [0066]); and automatically retrieving A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data (410, 412, and 414 in Figure 7; paragraph [0066]).

Dependent Claims 16-21

Claim 16 is directed to the method of Claim 15, further comprising automatically transferring the monitored A/V program data to the archival storage system if a presentation time associated with the monitored A/V program data exceeds a predetermined period (paragraph [0055]). Claim 17 is directed to the method of Claim 15, further comprising identifying the related A/V program data via header data associated with the monitored A/V program data (paragraph [0054]). Claim 18 is directed to the method of Claim 15, further comprising identifying the related A/V program data via a recordation time associated with the monitored A/V program data (paragraph [0054]). Claim 19 is directed to the method of Claim 15, further comprising transmitting the monitored A/V program data to a sink component coupled to the presentation device (paragraphs [0021] and [0048]). Claim 20 is directed to the method Claim 15, further comprising receiving a request for the monitored A/V program data from a sink component coupled to the presentation device (paragraphs [0021] and [0048]). Claim 21 is directed to the method of Claim 15, further comprising determining whether A/V program data related to the monitored A/V program data resides in the archival storage system (408 in Figure 7; paragraph [0066]).

Independent Claim 22

Claim 22 is directed to an audio/video (A/V) source component (16 in Figure 3; paragraphs [0019] and [0039]), comprising: a processor (16 in Figure 3; paragraph [0039]); and a data manager (156 in Figure 5; paragraphs [0047] and [0048]) executable by the processor, the data manager adapted to receive A/V program data for storage in memory, the

data manager adapted to determine whether A/V program data resides in memory related to the received A/V program data and, if related data resides in memory, automatically transfer either the received A/V program data or the related A/V program data to an archival storage system based on a broadcast sequence of the received A/V program data and the related A/V program data (510, 512, and 514 in Figure 8; paragraphs [0055-0056] and [0066-0069]).

Dependent Claims 23-28

Claim 23 is directed to the component of Claim 22, wherein the data manager is adapted to identify the related A/V program data based on header data associated with the received A/V program data (paragraph [0054]). Claim 24 is directed to the component of Claim 22, wherein the data manager is adapted to identify the related A/V program data based on a recordation time of the received A/V program data (paragraph [0054]). Claim 25 is directed to the component of Claim 22, wherein the archival storage system comprises an optical media storage system (paragraph [0049]). Claim 26 is directed to the component of Claim 22, wherein the data manager is adapted to automatically transfer the received A/V program data to the archival storage system if the received A/V program data represents a later broadcast (paragraphs [0054-0055]). Claim 27 is directed to the component of Claim 22, wherein the data manager is adapted to automatically transfer the related A/V program data to the archival storage system if the received A/V program data represents an earlier broadcast (paragraphs [0054-0055]). Claim 28 is directed to the component of Claim 22, wherein the data manager is adapted to initiate transmission of the received A/V program data to a sink component in response to a request received from the sink component (paragraphs [0021] and [0048]).

Independent Claim 29

Claim 29 is directed to an audio/video (A/V) component networking system (Figure 1; paragraph [0018]), comprising: a sink component (12 in Figure 2; paragraphs [0020-0022]) adapted to present A/V program data to a user via a presentation device; and a source component (16 in Figure 3; paragraphs [0019] and [0039]) adapted to monitor presentation of the A/V program data via the presentation device by the sink component, the source component adapted to automatically retrieve A/V program data related to the presented A/V program data from an archival storage system in response to presentation of the presented A/V program data (410, 412, and 414 in Figure 7; paragraph [0066]).

Dependent Claims 30-36

Claim 30 is directed to the system of Claim 29, wherein the source component is adapted to identify the related A/V program data based on header data associated with the presented A/V program data (paragraph [0054]). Claim 31 is directed to the system of Claim 29, wherein the source component is adapted to identify the related A/V program data based on a recordation time of the presented A/V program data (paragraph [0054]). Claim 32 is directed to the system of Claim 29, wherein the source component is adapted to return the related A/V program data from memory to the archival storage system if a presentation time associated with the presented A/V program data exceeds a predetermined period (paragraph [0055]). Claim 33 is directed to the system of Claim 29, wherein the source component is adapted to determine whether A/V program data related to the presented A/V program data resides in the archival storage system (408 in Figure 7; paragraph [0066]). Claim 34 is directed to the system of Claim 29, wherein the source component is adapted to determine whether received A/V program data is related to A/V program data residing in the archival storage system (512 in Figure 8; paragraphs [0066]). Claim 35 is directed to the system of Claim 29, wherein the source component is adapted transmit the related A/V program data to the sink component in response to a request received by a user via the sink component. Claim 36 is directed to the system of Claim 29, wherein the archival storage system comprises an optical media storage system.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. The rejection of claims 1-4, 8-10, 12, 14-15, 18-22, 24-29, 31, and 33-36 under 35 U.S.C. § 102(e) as being anticipated by Farrand, U.S. Patent Application Publication No. 2003/0193619 ("Farrand").

2. The rejection of claims 5, 13, 17, 23, and 30 under 35 U.S.C. § 103(a) as being unpatentable over Farrand in view of Jeffers et al., U.S. Patent No. 4,739,510 ("Jeffers").

3. The rejection of claims 6, 11, 16, and 32 under 35 U.S.C. § 103(a) as being unpatentable over Farrand in view of White, U.S. Patent Application Publication No. 2002/0056098 ("White").

4. The rejection of claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Farrand in view of Ochiai et al., U.S. Patent Application Publication No. 2003/0193619 ("Ochiai").

ARGUMENT

Claims 1-36 are pending in the current application. In an office action dated May 6, 2008, the Examiner rejected claims 1-4, 8-10, 12, 14-15, 18-22, 24-29, 31, and 33-36 under 35 U.S.C. § 102(e) as being anticipated by Farrand, U.S. Patent Application Publication No. 2003/0193619 ("Farrand"), rejected claims 5, 13, 17, 23, and 30 under 35 U.S.C. § 103(a) as being unpatentable over Farrand in view of Jeffers et al., U.S. Patent No. 4,739,510 ("Jeffers"), rejected claims 6, 11, 16, and 32 under 35 U.S.C. § 103(a) as being unpatentable over Farrand in view of White, U.S. Patent Application Publication No. 2002/0056098 ("White"), and rejected claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Farrand in view of Ochiai et al., U.S. Patent Application Publication No. 2003/0193619 ("Ochiai"). Appellant respectfully traverses these rejections.

ISSUE 1

The rejection of claims 1-4, 8-10, 12, 14-15, 18-22, 24-29, 31, and 33-36 under 35 U.S.C. § 102(e) as being anticipated by Farrand.

The Audio/Video Source Component to Which Claims 1 and 10 Are Directed

Claims 1 and 10 recite:

1. An audio/video (A/V) source component, comprising:
a processor; and
a data manager executable by the processor, the data manager adapted to monitor presentation of A/V program data requested by a user via a presentation device, the data manager adapted to automatically retrieve A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data to the user.

10. An audio/video (A/V) source component, comprising:
means for monitoring presentation of requested A/V program data to a user via a presentation device; and
means for automatically retrieving A/V program data related to the

monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data.

The subject matter to which claims 1 and 10 are directed is illustrated in Figure 7 of the current application, and described in the text of the current application in paragraphs [0065-0066], provided below with added emphasis:

> [0065] FIGURE 7 is a flow chart illustrating another embodiment of an audio/video component networking method in accordance with the present invention. The method begins at block 400, where source component 16 receives a request for particular A/V program data 32 from a sink component 12. At block 402, data manager 156 of source component 16 identifies the requested or selected A/V program data 32. At block 404, data manager 156 initiates transfer of the requested A/V program data 32 to a particular sink component 12 via communication network 18.
>
> [0066] At block 406, data manager 156 accesses archival storage system 34. At the decisional block 408, a determination is made whether related A/V program data 202 resides on archival storage system 34. If related A/V program data 202 resides on archival storage system 34, the method proceeds from block 408 to decisional block 410, **where a determination is made whether the requested A/V program data 32 has been presented to the user. If the requested A/V program data 32 has not yet been presented to the user via a presentation device 14, the method proceeds from block 410 to block 412, where data manager 156 monitors the presentation of the requested A/V program data 32 to the user. As described above, system 10 may be configured such that source component 16 monitors and communicates with sink component 12 to determine whether the requested A/V program data 32 has been presented to the user. Alternatively, upon presentation of the requested A/V program data 32 to the user via presentation device 14, sink component 12 may be configured to transmit a signal to source component 16 indicating presentation of the requested A/V program data 32. If the requested A/V program data 32 has been presented to the user, the method proceeds from block 410 to block 414, where data manager 156 extracts related A/V program data 202 from archival storage system 34 and stores the related A/V program data 202 in memory 30.**

Claims 1 and 10 are clearly directed to a system in which a source component includes a data manager which decides whether or not to extract program data, related to program data already transmitted to a sink/presentation-device, from an archival storage system depending on whether the sink/presentation-device has actually presented the program data to a user. Please note that, in paragraph [0066], the methods by which the data manager can ascertain whether or not particular program data has been presented to a user by a sink/presentation-

device are explicitly stated. The source component, which executes the data manager, can monitor the sink component, to which is it coupled and with which it is in direction communication, in order to make the determination. This is a form of event detection known in computing as polling. Alternatively, the sink component may, on its own accord, detect a presentation event, and send an asynchronous message to the source component to report the presentation. This is analogous to interrupt-driven event handling in an operating system. It is already clear, from these two paragraphs, that, as explicitly claimed in claim 1, the data manager retries the related program data from archival storage only when the program data to which it is related has actually been presented to a user.

The currently claimed system is described, with reference to Figures 1 and 5, is paragraphs [0018-0022], portions of which are provided below with added emphasis:

> [0018] FIGURE 1 is a diagram illustrating an embodiment of an audio/video component networking system 10 in accordance with the present invention. **Briefly, system 10 provides a distributed audio/video component network for a household, hotel or other structure enabling a user located in one room to access and retrieve a variety of different types of audio/video program data from a variety of different sources located in other rooms and display the audio/video program data on a desired presentation device, such as television or stereo system.** Additionally, embodiments of the present invention enable a user to access and control menu parameters associated with remotely located audio/video program data sources for performing menu-related actions corresponding to a desired audio/video program data source such as, but not limited to, viewing a library of available audio/video program data, paging or otherwise moving forward or backward within a particular audio/video program data file, changing broadcast channels or otherwise selecting a desired audio/video program file or program data stream, and displaying menu options available on the corresponding audio/video program data source.
>
> [0019] In the embodiment illustrated in FIGURE 1, system 10 comprises at least one **sink component 12 communicatively coupled to at least one presentation device 14. Additionally, the sink component 12 is communicatively coupled to at least one source component 16 via a communication network 18. Presentation device 14 may comprise any device for presenting audio/video (A/V) program data to a user such as, but not limited to, speakers, a computer, a monitor, a television, a stereo system, or a combination of the foregoing, for performing, playing, or otherwise presenting A/V program data to a user.** As used herein, A/V program data comprises audio information, visual information, or a combination thereof, available in a variety of formats and available as a real time data stream and/or data file. For example, A/V program data may comprise still images such as, but not limited to, scanned photograph files or

digital image files; video content such as, but not limited to, movie or video content, a television broadcast, or streaming video content; and/or audio content such as, but not limited to, an audio broadcast or a digital sound file.

[0020] **In FIGURE 1, each sink component 12 is illustrated as a separate and discrete component apart from a communicatively coupled presentation device 14; however, it should be understood that sink component 12 may also be configured as part of a corresponding presentation device 14 such that the functionality of sink component 12 resides within a corresponding presentation device 14. Source component 16 comprises any device or source of A/V program data such as, but not limited to, a digital versatile disk (DVD) drive or player, a satellite tuner/receiver/demodulator, a stereo receiver, a cable tuner, a personal video recorder or digital video recorder (PVR/DVR), a computer, hard drive, or any other type of device for receiving, storing and/or transmitting analog and/or digital A/V program data.** As illustrated in FIGURE 1, source component 16 may also be communicatively coupled to at least one presentation device 14. Source component 16 may also be configured as part of a presentation device 14.

[0021] **Briefly, in operation, each sink component 12 is adapted to communicate with at least one source component 16 via communication network 18 to identify and obtain A/V program data from a source component 16 and deliver or transmit the identified A/V program data to a presentation device 14.**

[0022] **Thus, in operation, each sink component 12 comprises an interface accessible by a user such that the user may remotely access an interface of the corresponding source component 16 to identify, access and/or control menu-related functions associated with source component 16 and/or A/V program data associated with source component 16.**

Clearly, a presentation device is a device that renders A/V program data for presentation to a user, in real time, via speakers, visual display devices, or both. The sink component is directly coupled to, or included within, a presentation device to interface the presentation device, through a network, to a source component. A source component is a source of A/V program data, such as a DVD player or radio. As discussed in paragraph [0018], embodiments of the present invention are directed to allowing a sink/presentation-device in one room to render A/V program data provided by a remote source component in a another room to a user. A reason for the data-manager's need to detect actual presentation of A/V program data to a user is that, within a source component, memory (32 in Figure 1) is limited, while archival storage (34 in Figure 1) is much less so. By contrast, A/V program data must be sent or streamed from the source component to a sink/presentation-device from memory.

Thus, since memory is limited, the data manager needs to be sure that already transmitted A/V program data has actually been presented to a user before beginning to move related A/V program data from archival storage to memory in order to transfer the related A/V program data to a sink/presentation-device.

The data manager is further described, in the current application, in paragraphs [0047-0048], provided below with added emphasis:

> [0047] FIGURE 5 is a diagram illustrating another embodiment of source component 16 in accordance with the present invention. In addition to all or a portion of the components illustrated in FIGURE 3, in the embodiment illustrated in FIGURE 5, **source component 16 comprises processor 100, network interface 104, sink component interface 106, memory 30, and a data manager 156. Data manager 156 may comprise software, hardware, or a combination of software and hardware. In FIGURE 5, data manager 156 is illustrated as being stored in memory 30 so as to be accessible and executable by processor 150.** However, it should be understood that data manager 156 may be otherwise stored, even remotely, so as to be accessible and executable by processor 150.
>
> [0048] **Data manager 156 controls access and storage of A/V program data 32 available from source component 16.** For example, as illustrated in FIGURE 5, source component 16 comprises a database 160 stored in memory 30 and archival storage system 34. As described above, memory 30 may comprise random access memory, local cache memory, or other types of memory to enable efficient access to stored A/V program data 32 such that **the A/V program data 32 stored in memory 30 may be quickly transferred to a corresponding sink component 12 in a real-time environment.** Briefly, data manager 156 manages the storage and transfer of A/V program data 32 between database 160 and archival storage system 34 and between source component 16 and sink component(s) 12. For example, as will be described further below, data manager 156 may be configured to automatically transfer A/V program data 32 between memory 30 and archival storage system 34 based on a storage capacity of memory 30, a sequence of presentation of A/V program data 32 to a user, or other types of predetermined criteria or criteria as selected or determined by a user.

As discussed above, the data manager resides in a source component, and transfers A/V program data between archival storage and memory in the source component, as well as from memory in the source component to a remote sin/presentation-device through a network.

The Farrand Reference

Farrand does not teach, mention, or even remotely suggest the invention to

which claim 1 is directed. As stated by Farrand in Farrand's abstract, Farrand is directed to a method:

> implemented on a multi-tuner receiver system ... comprising: **monitoring user input on the multi-tuner receiver system; identifying a first channel which the user is likely to select based on the user input**; and speculatively tuning to the first channel using a first tuner prior to the user selecting the first channel. (emphasis added)

Please notice that Farrand is directed to monitoring user input, and not presentation of A/V data to a user by a presentation device. Farrand is not concerned with monitoring presentation of A/V data to a user by a presentation device in order to decide when to move additional, related A/V program data from an archival storage system to memory in a source device, but is instead concerned with monitoring user input in order speculatively tune a receiver to a channel in advance of a user actually requesting the tuning. Farrand is thus directed to a very different problem domain than that to which the current application is directed.

In the rejection of claims 1 and 10, the Examiner cites [0078-0081] and [0097] of Farrand. These paragraphs are provided below:

> [0078] Logging/Data Warehousing. In one embodiment, the NOC 180 may perform logging and data warehousing for the home media server 110. More specifically, **the NOC 180 may maintain a log of network transactions for each home media server 110 and subsequently evaluate the log for a variety of reasons** (e.g., to troubleshoot system problems, to determine a user's preferences and tailor services and/or advertising to that user, ... etc). For example, **by monitoring usage patterns, the NOC 180 may determine that every time a certain Java applet is downloaded, the home media server 110 crashes.** As such, the NOC 180 may takes steps to ensure that the applet in question is no longer downloaded by the home media server 110 (e.g., by notifying the user or automatically blocking the applet). The NOC 180 could then notify the technical support staff to determine the problem with the applet.
>
> [0079] Similarly, the usage log may be evaluated to determine the preferences of a user and to provide specialized services to that user based on those preferences. For example, **based on the Web sites the user visits and/or the channels that the user watches, the NOC 180 may determine that the user is interested in baseball.** As such, the NOC180 may automatically provide baseball-related content to the user such as, for example, broadcast schedules for upcoming games, a subscription offer to a sports magazine, advertisements, and various other baseball-related content. Similarly, the NOC 180 may determine that the user watches certain television shows on a regular basis, and may automatically download/record those shows on the home media server 110 (e.g., via TCP/IP), so that they will be readily

available for the user (e.g., during the non-broadcast periods of time).

[0080] Archiving. In one embodiment, users may backup multimedia content and other types of data at the NOC 180. For example, a user may take a series of pictures with a digital camera and transmit the originals to the NOC 180 for developing. In one embodiment, the NOC will transmit the pictures to a developer on behalf of the user and will store a backup copy of each of the originals (the NOC 180 will be backed up regularly to prevent loss of the originals).

[0081] In one embodiment, **the NOC 180 will monitor all multimedia content purchased by the user over the Internet.** For example, when the user downloads a new compact disk ("CD") from a music download site, the NOC 180 will record the transaction in the user's profile. As such, the user does not need to store all of his/her multimedia content locally on the home media server 110. Rather, because the NOC 180 keeps track of all the content to which the user has access rights, the user can offload storage to the NOC 180 and re-download the content when necessary (e.g., following a hard drive failure on the home media server 110).

[0097] As described briefly above, using the foregoing system, all of a user's data, music and video may be stored in a single location (i.e., home media server 110) and accessed from anywhere in the house (e.g., stereo node 522) or the car (e.g., via an automotive multimedia node 164 as indicated in FIG. 2a). Moreover, if the home media server 110 is connected to the Internet through, for example, a persistent DSL connection 360, the user can access all of the stored content from various other locations across the globe (e.g., a summer home or a hotel while away on business). One embodiment of the system provides a secure, encrypted data stream when content/data is requested from the home media server 110 in this manner, thereby protecting the user's privacy as well as the copyrights to the underlying multimedia content.

Nothing, in these cited paragraphs, as well as in the above-provided abstract, in any way suggests that Farrand's NOC attempts to determine when A/V program data is actually presented to a user.

As readily understood by anyone familiar with electronics and computing, from Figure 1 of Farrand, Farrand's NOC ("network operations server") (180 in Figure 1) is connected to the home media server (110 in Figure 1) via the Internet (102). Farrand's NOC is not connected to any of the user's presentation devices or source devices (171, 192, 193, 194, 195, 191, 172, 196, 197, 198, and 199) shown in Figure 1. In paragraph [0070], Farrand explicitly states that the NOC is one or more servers that communicate with the home media server over the Internet. Those familiar with electronics and computing well understand that,

being one or more severs connected to the home media server via the Internet, the NOC has no way to determine when, or if, any particular A/V program data is presented to a user by a presentation device connected to the home media server via home media network (190). The NOC cannot communicate directly with the user's presentation devices or source devices (171, 192, 193, 194, 195, 191, 172, 196, 197, 198, and 199). To do so, the home media server would need to act as a bridge between the Internet and the home media network, but there is absolutely no teaching, mention, or suggestion that the home media server does act as a bridge between the Internet and the home media network. Farrand describes the home media network as a "realtime home media network" in paragraph [0052], and, in paragraphs [0056-0057] discuss the fact that the home media network connects the home media server to cameras, fax machines, standard telephones, and other such devices, and that the home media server and home media network are designed to accommodate extremely low-end devices with minimal processing power. Those familiar with electronics and computing well understand that the home media network is not the Internet, and that there is no way for the NOC to directly communicate with any of the presentation devices. There is thus no way for the NOC to determine or detect when, or if, any particular A/V program data is presented to a user by a presentation device. Instead, as discussed in the cited passages of Farrand, the NOC can monitor Internet-related transactions carried out by the home media server. *Were a protocol established between the home media server and the NOC for monitoring presentation of A/V program data to a user by presentation devices, and, in addition, were the home media server designed to detect when data has been presented to a user on a presentation device, then, in fact, the NOC might be capable of monitoring presentation of A/V program data to a user by presentation devices. However, Farrand does not even remotely suggest that a protocol is established between the home media server and the NOC for monitoring presentation of A/V program data to a user by presentation devices and that the home media server detects when data has been presented to a user on a presentation device and reports presentation to the NOC using such a protocol. Farrand does not teach, mention, or suggest that for which it is cited.*

The rejections of claims 1 and 10 under 35 U.S.C. § 102(e) as being anticipated by Farrand.

In the rejection of claims 1 and 10, the Examiner states, in section 3 of the Office Action:

Claims 1 and 10, Farrand teaches an audio/video source component, comprising:

- a processor (180) (paragraph [0078]); and
- a data manager (i.e. for logging usage) executable by the processor (180), the data manager adapted to monitor presentation of A/V program data requested by a user via a presentation device (channels watch, website visited) (paragraph [0079]),
- the data manager adapted to automatically retrieve A/V program data related to the monitored A/V program data (related-content) from an archival storage system (content may be stored at NOC, or home media server) in response to presentation of the monitored A/V program data to the user (paragraphs [0078]-[0081], [0097]);

Farrand's NOC is not a processor, it is one or more servers connected to the home media server via the Internet. Indeed, Farrand's NOC likely contains one or more processors, but it is not, itself, a processor. This is, perhaps, a rather small point, but the Examiner cannot simply read the well-known and well-understood term processor onto a server computer.

As discussed, in detail, in the preceding section, Farrand's NOC is not disclosed by Farrand as monitoring, or being capable of monitoring, presentation of A/V program data requested by a user via a presentation device. Farrand's NOC is not a processor, it is one or more servers connected to the home media server via the Internet. In Farrand's system, a user's presentation devices are connected to the home media server via a home media network. Farrand does not teach, mention, or even remotely suggest that the home media server acts a bridge between the Internet and the home media network, and thus Farrand's NOC cannot communicate with a user's presentations devices. Farrand does not teach, mention, or even remotely suggest that the home media server monitors when and if A/V program data is presented to a user, and does not teach, mention, or suggest reporting, by Farrand's home media server, information regarding whether or not A/V program data has been presented to a user by a presentation device. There appears to be no possible way for this to occur in Farrand's system, since the NOC does not poll for such information and the home media server is not disclosed as using an asynchronous call back or other reporting method for reporting such events through the Internet to the NOC. The Examiner's assertion that the NOC is a data manager adapted to monitor presentation of A/V program data requested by a user via a presentation device and that the NOC retrieves A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data to the user makes absolutely no sense.

There is no support for this assertion in Farrand.

In section 1 of the Office Action, the Examiner responds to the arguments, presented above, made by Appellant's representative in a previously filed response. The Examiner states: "In response to Applicant's argument, a processor as broadly interpreted is a device that performs (processes) a particular function." This assertion represents clear error. By the Examiner's definition, a processor would include any device ever manufactured for any purpose. According to M.P.E.P. §2111.01:

> During examination, the claims must be interpreted as broadly as their terms reasonably allow. *In re American Academy of Science Tech Center*, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004) ... This means that the words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the specification.

To interpret the phrase "processor" to mean Farrand's NOC, which is explicitly stated by Farrand to be one or more servers that communicate with the home media server over the Internet, is absolutely inconsistent with Figures 2, 3, and 4 and paragraphs [0025] and [0028] of the current application, in which a processor is described as being an internal component of a sink component, source component, and data storage system that accesses a separate internal memory component. Those with even cursory familiarity with electronics and computer science well understand that a processor is an instruction-execution engine, generally implemented as a single integrated circuit, and connected by internal busses with an electronic device to memory and various bridge devices.

The Examiner further asserts:

> In response to Applicant's argument, it should be noted that the claims are interpreted in their broadest sense. The Examiner appreciates the concept of current invention as to the monitoring of the display of the presentation device, however, these concepts are not represented by the claims. As claimed, "the data manager adapted to monitor presentation of the A/V program data requested by a user via a presentation device" is simply interpreted as the NOC monitoring the users activities, those activities are interpreted as data that is requested by the user. Those programs that would be requested by the user would be displayed on the presentation device. Further, the limitation "the data manager adapted to automatically retrieve A/V program data related to the monitored A/V program data from an archival storage system in response to the presentation of the monitored A/V program data to the user" is interpreted as a user watching a TV series regularly (monitored A/V program data monitored by the NOC), then automatically retrieving those regular TV series programs and storing them to the NOC or home media server. Then those program can be automatically retrieved by the user at non-broadcast times (paragraph [0079]);

This assertion clearly reveals a number of very serious errors in the Examiner's rejections. The word "presentation" and the phrase "presentation device" are clearly defined and consistently used in the current application. For example, as quoted above, the current application states: "Presentation device 14 may comprise any device for presenting audio/video (A/V) program data to a user such as, but not limited to, speakers, a computer, a monitor, a television, a stereo system, or a combination of the foregoing, for performing, playing, or otherwise presenting A/V program data to a user." Furthermore, even in common, non-technical English, presenting program data on a presentation device does not, in any way, have the meaning "users activities, those activities are interpreted as data that is requested by the user." The phrase "presenting program data on a presentation device" does not mean "program data requested by the user." Requesting data by a user is not, in any way, the same as presenting data to a user. A user may request data by inputting a request to an input device, for example, but A/V data is presented to a user by a presentation device by rendering the data for broadcast through speakers, display on a display monitor, or both. The Examiner's assertion makes no sense technically, makes no sense in light of the disclosure of the current application, and makes no sense with respect to the common English-language meanings of the terms and phrases used in claim 1.

The Examiner's assertion that those "programs that would be requested by the user would be displayed on the presentation device" is an absolutely speculative and conclusory assumption that is clearly and unambiguously incorrect, and, moreover, reveals that the Examiner has completely failed to understand the problem domain addressed by the currently claimed invention. As discussed above, Appellant's data manager monitors presentation devices to determine if and when A/V program data transmitted to the presentation device has been presented so that the data manage can defer transferring additional, related program data from archival storage to memory in preparation of transferring the additional data to the presentation device. Memory is quite limited, and the data manager seeks to use memory for the additional data only when there is a need to do so. A/V data downloaded to a presentation device may not be presented to a user. For example, a user may pause a presentation device, during a rendering and display of a program, in order to perform some other task. The data manager should not retrieve additional information from archival storage and transfer that data to memory while the presentation device is paused, since the memory within the source component may be needed for other tasks and is not needed for immediate transfer of the additional data. Furthermore, a user may request a

program, but subsequently decide not to immediately view it. The Examiner's assumption is clearly incorrect, and represents clear error.

The Examiner's attempt to read the phrase "data manger" onto a user makes absolutely no sense. Claim 1 explicitly states that the data manager is executable by the processor. Human users are not executable by processors.

The remaining independent claims are provided below:

> 15. An audio/video (A/V) component networking method, comprising:
> monitoring presentation of requested A/V program data via a presentation device; and
> automatically retrieving A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data.
>
> 22. An audio/video (A/V) source component, comprising:
> a processor; and
> a data manager executable by the processor, the data manager adapted to receive A/V program data for storage in memory, the data manager adapted to determine whether A/V program data resides in memory related to the received A/V program data and, if related data resides in memory, automatically transfer either the received A/V program data or the related A/V program data to an archival storage system based on a broadcast sequence of the received A/V program data and the related A/V program data.
>
> 29. An audio/video (A/V) component networking system, comprising:
> a sink component adapted to present A/V program data to a user via a presentation device; and
> a source component adapted to monitor presentation of the A/V program data via the presentation device by the sink component, the source component adapted to automatically retrieve A/V program data related to the presented A/V program data from an archival storage system in response to presentation of the presented A/V program data.

Clearly, claims 15 and 29 are directed to subject matter similar to that to which claims 1 and 10 are directed. As discussed, Farrand does not teach, mention, or suggest monitoring a presentation device to determine if and when program data is presented to a user by the presentation device. Thus claims 15 and 29 are not anticipated by Farrand for the same reasons that Farrand fails to anticipate claims 1 and 10.

In rejecting claim 22, the Examiner again attempts to read the claim on the same paragraphs on which the Examiner attempts to read claims 1 and 10. The Examiner does not appear to make a serious attempt to read claim 22 onto Farrand. The cited paragraphs of Farrand do not once use the word "memory" or in any way allude to memory

within a device. Farrand does not, in the cited paragraphs, discuss determining whether "whether A/V program data resides in memory related to the received A/V program data." Farrand does not discuss any type of decision as to whether to transfer received A/V program data or related A/V program data to an archival storage system based on such a determination. The rejection makes absolutely no sense. The Examiner attempts to read "A/V program data" onto "user requests," attempts to read "if related data resides in memory" onto "user requesting programs on a regular basis," and attempts to read the phrase "broadcast sequence" onto "viewing of a regular basis." The phrases onto which the Examiner attempts to read these three phrases are not even remotely related to them, in technical parlance or in the common understanding of the English language. Broadcasting is not viewing, a sequence is not a regular activity, data residing in memory has nothing whatsoever to do with a user requesting programs on a regular basis, and A/V program data is not a user request. The rejection fall short of the standards for an anticipation rejection provided in M.P.E.P. §2131:

> **TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM**
> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Note that an anticipation rejection is not made by arbitrarily defining terms and phrases to completely unrelated meanings, contrary even to common English meanings, but, instead, finding descriptions of claim elements and the claimed invention in the prior art reference. Clearly, the subject matter of claim 22 is not even remotely suggested in the cited paragraphs of Farrand.

ISSUE 2

The rejection of claims 5, 13, 17, 23, and 30 under 35 U.S.C. § 103(a) as being unpatentable over Farrand in view of Jeffers.

Farrand does not teach, disclose, mention, or even remotely suggest that for which Farrand is cited by the Examiner, as discussed in preceding sections. Furthermore, the Examiner has provided no justification for combing Farrand and Jeffers, nor provided any

indication of how the teachings of the two references might be combined. The Examiner has failed to make a prima facie obviousness-type rejection under any standards for obviousness-type rejections, including those provided in M.P.E.P. § 2141.

ISSUE 3

The rejection of claims 6, 11, 16, and 32 under 35 U.S.C. § 103(a) as being unpatentable over Farrand in view of White.

Farrand does not teach, disclose, mention, or even remotely suggest that for which Farrand is cited by the Examiner, as discussed in preceding sections. Furthermore, the Examiner has provided no justification for combing Farrand and White, nor provided any indication of how the teachings of the two references might be combined. The Examiner has failed to make a prima facie obviousness-type rejection under any standards for obviousness-type rejections, including those provided in M.P.E.P. § 2141.

ISSUE 4

The rejection of claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Farrand in view of Ochiai.

Farrand does not teach, disclose, mention, or even remotely suggest that for which Farrand is cited by the Examiner, as discussed in preceding sections. Furthermore, the Examiner has provided no justification for combing Farrand and White, nor provided any indication of how the teachings of the two references might be combined. The Examiner has failed to make a prima facie obviousness-type rejection under any standards for obviousness-type rejections, including those provided in M.P.E.P. § 2141.

CONCLUSION

Farrand does not teach, mention, or even remotely suggest that for which Farrand is cited by the Examiner. The Examiner's rejections all depend on arbitrarily defining claim terms and phrases to have meaning completely inconsistent with the current specification and, in general, the English language as commonly understood and as defined in English-language dictionaries. Anticipation and obviousness-type rejections require an Examiner to find teachings of claim elements and claimed inventions. Simply redefining selected terms and phrases in a fashion contradictory to their common meanings and

contradictory to the specification does not come even close to making a *prima facie* case for either.

Appellant respectfully submits that all statutory requirements are met and that the present application is allowable over all the references of record. Therefore, Appellant respectfully requests that the present application be passed to issue.

Respectfully submitted,
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CLAIMS APPENDIX

1. An audio/video (A/V) source component, comprising:

a processor; and

a data manager executable by the processor, the data manager adapted to monitor presentation of A/V program data requested by a user via a presentation device, the data manager adapted to automatically retrieve A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data to the user.

2. The component of Claim 1, wherein the data manager is adapted to transmit the monitored A/V program data to a sink component coupled to the presentation device.

3. The component of Claim 1, wherein the data manager is adapted to receive a request for the monitored A/V program data from a sink component coupled to the presentation device.

4. The component of Claim 1, wherein the data manager is adapted to identify the related A/V program data via a recordation time of the monitored A/V program data.

5. The component of Claim 1, wherein the data manager is adapted to identify the related A/V program data via header data of the monitored A/V program data.

6. The component of Claim 1, wherein the data manager is adapted to automatically transfer the monitored A/V program data to the archival storage system if a presentation time for the monitored A/V program data exceeds a predetermined period.

7. The component of Claim 1, wherein the data manager is adapted to automatically transfer the monitored A/V program data to the archival storage system based on a memory capacity.

8. The component of Claim 1, wherein the archival storage system comprises an optical media storage system.

9. The component of Claim 1, wherein the data manager is adapted to determine whether A/V program data related to the monitored A/V program data resides in the archival storage system.

10. An audio/video (A/V) source component, comprising:

means for monitoring presentation of requested A/V program data to a user via a presentation device; and

means for automatically retrieving A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data.

11. The component of Claim 10, further comprising means for automatically transferring the monitored A/V program data to the archival storage system if a presentation time for the monitored A/V program data exceeds a predetermined period.

12. The component of Claim 10, further comprising means for identifying the related A/V program data via a recordation time of the monitored A/V program data.

13. The component of Claim 10, further comprising means for identifying the related A/V program data via header data associated with the monitored A/V program data.

14. The component of Claim 10, further comprising means for transmitting the monitored A/V program data to a sink component coupled to the presentation device.

15. An audio/video (A/V) component networking method, comprising:

monitoring presentation of requested A/V program data via a presentation device; and

automatically retrieving A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data.

16. The method of Claim 15, further comprising automatically transferring the monitored A/V program data to the archival storage system if a presentation time associated

with the monitored A/V program data exceeds a predetermined period.

17. The method of Claim 15, further comprising identifying the related A/V program data via header data associated with the monitored A/V program data.

18. The method of Claim 15, further comprising identifying the related A/V program data via a recordation time associated with the monitored A/V program data.

19. The method of Claim 15, further comprising transmitting the monitored A/V program data to a sink component coupled to the presentation device.

20. The method Claim 15, further comprising receiving a request for the monitored A/V program data from a sink component coupled to the presentation device.

21. The method of Claim 15, further comprising determining whether A/V program data related to the monitored A/V program data resides in the archival storage system.

22. An audio/video (A/V) source component, comprising:

a processor; and

a data manager executable by the processor, the data manager adapted to receive A/V program data for storage in memory, the data manager adapted to determine whether A/V program data resides in memory related to the received A/V program data and, if related data resides in memory, automatically transfer either the received A/V program data or the related A/V program data to an archival storage system based on a broadcast sequence of the received A/V program data and the related A/V program data.

23. The component of Claim 22, wherein the data manager is adapted to identify the related A/V program data based on header data associated with the received A/V program data.

24. The component of Claim 22, wherein the data manager is adapted to identify the related A/V program data based on a recordation time of the received A/V program data.

25. The component of Claim 22, wherein the archival storage system comprises an optical media storage system.

26. The component of Claim 22, wherein the data manager is adapted to automatically transfer the received A/V program data to the archival storage system if the received A/V program data represents a later broadcast.

27. The component of Claim 22, wherein the data manager is adapted to automatically transfer the related A/V program data to the archival storage system if the received A/V program data represents an earlier broadcast.

28. The component of Claim 22, wherein the data manager is adapted to initiate transmission of the received A/V program data to a sink component in response to a request received from the sink component.

29. An audio/video (A/V) component networking system, comprising:

a sink component adapted to present A/V program data to a user via a presentation device; and

a source component adapted to monitor presentation of the A/V program data via the presentation device by the sink component, the source component adapted to automatically retrieve A/V program data related to the presented A/V program data from an archival storage system in response to presentation of the presented A/V program data.

30. The system of Claim 29, wherein the source component is adapted to identify the related A/V program data based on header data associated with the presented A/V program data.

31. The system of Claim 29, wherein the source component is adapted to identify the related A/V program data based on a recordation time of the presented A/V program data.

32. The system of Claim 29, wherein the source component is adapted to return the related A/V program data from memory to the archival storage system if a presentation

time associated with the presented A/V program data exceeds a predetermined period.

33. The system of Claim 29, wherein the source component is adapted to determine whether A/V program data related to the presented A/V program data resides in the archival storage system.

34. The system of Claim 29, wherein the source component is adapted to determine whether received A/V program data is related to A/V program data residing in the archival storage system.

35. The system of Claim 29, wherein the source component is adapted transmit the related A/V program data to the sink component in response to a request received by a user via the sink component.

36. The system of Claim 29, wherein the archival storage system comprises an optical media storage system.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.